

United States District Court
Western District of Texas
Waco Division

Sherman Lamont Fields,
Movant,

v.

United States of America,
Respondent.

No. W-01-CR-164(1)-ADA
No. 20-CV-527-ADA

ORDER

Before the Court is Movant Sherman Lamont Fields's Successive Motion for Collateral Relief (ECF No. 401), in which he moves under 28 U.S.C. § 2255 to vacate his counts of conviction under 18 U.S.C. § 924(c)—Counts Three, Five, and Seven. Also before the Court is the parties' Joint Advisory, which incorporates the Government's Response to Fields's motion (ECF No. 409). The parties have agreed that this Court should (1) dismiss Fields's motion to vacate insofar as it concerns Count Five, which the Fifth Circuit has not authorized him to challenge in a successive motion to vacate under § 2255; (2) vacate Fields's convictions and sentences on Counts Three and Seven; and (3) resentence Fields to life imprisonment on Count Five and appropriate terms on the other surviving counts. The parties have also advised the Court through its staff that they consent to hold the resentencing by video teleconference.

For the reasons given by the parties in their Joint Advisory (ECF No. 409), Fields's Successive Motion for Collateral Relief (ECF No. 401) is DISMISSED IN PART and GRANTED IN PART as follows: The portion of the Motion addressing Count Five is DISMISSED. The portion of the Motion addressing Counts Three and Seven is GRANTED and Fields's convictions and sentences on Counts Three and Seven are VACATED.

The United States Probation Office shall prepare a revised presentence report. Resentencing will be held by video teleconference on April 7, 2021, at 1:30 pm. The parties shall submit any sentencing memoranda no later than 14 days before resentencing.

Signed: January 19, 2021



ALAN D. ALBRIGHT
UNITED STATES DISTRICT JUDGE